

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

| | | |
|---------------------------|---|--------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | CASE NO. C-1-01-541 |
| BUFORD F. HOUCK, et al., |) | |
| |) | |
| Defendants. |) | Judge Beckwith |
| |) | Magistrate Judge Sherman |
| _____ |) | |

UNITED STATES' MOTION FOR LEAVE TO AMEND COMPLAINT

Pursuant to Rules 15(a) and 19 of the Federal Rules of Civil Procedure and 26 U.S.C. §7403(b), the United States hereby requests leave to amend its complaint, filed on August 13, 2001, to add Betty J. Houck as a defendant, as she is a necessary party to the action.

A supporting Memorandum of Law is served and filed concurrently with this motion.

Respectfully Submitted,

GREGORY G. LOCKHART
United States Attorney

JAN HOLTZMAN
Assistant United States Attorney

/s/ Lara E. Ewens
LARA E. EWENS
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 55
Ben Franklin Station
Washington, D.C. 20044
(202) 307-2822

CERTIFICATE OF SERVICE

It is hereby declared, under penalties of perjury, that a copy of the foregoing United States' Motion to Amend Complaint was filed electronically on September 26, 2003. Notice of this filing will be sent to all parties that have registered for electronic filing by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. Service was made on September 26, 2003 by U.S. Mail, postage prepaid on the following parties who are not presently registered for electronic filing:

STATE OF OHIO, DEPARTMENT OF TAXATION
TAX COMMISSIONER OF OHIO
30 East Broad Street, 22 Floor
Columbus, Ohio 43215

FIRST FEDERAL SAVING & LOAN, ASSOC.
415 Center Street
Ironton, Ohio 45638

BUFORD F. HOUCK
1739 Kevin Street
Ironton, Ohio 45638

BETTY J. Houck
1739 Kevin Street
Ironton, Ohio 45638

/s/ Lara Ewens
LARA EWENS

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| Defendants. |) | Judge Beckwith |
| |) | Magistrate Judge Sherman |
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**MEMORANDUM IN SUPPORT OF UNITED STATES’
MOTION FOR LEAVE TO AMEND COMPLAINT**

The United States hereby submits this memorandum in support of the United States’ Motion for Leave to Amend Complaint in the above-captioned proceeding.

Pursuant to Rules 15(a) and 19 of the Federal Rules of Civil Procedure, the United States requests leave to amend its complaint, filed on August 13, 2001, to add Betty J. Houck as a defendant, as she is a necessary party to the action. Pursuant to 26 U.S.C. § 7403(b) all parties who claim, or may claim, an interest in the property upon which the United States seeks to foreclose its liens must be named in an action by the United States to foreclose its liens. Betty Houck is, or was, the wife of Buford Houck who is a defendant in this action and she holds, or did hold, title to the property at issue in this case as a joint tenant with rights of survivorship. The deed to the property in this case was transferred to Buford F. Houck and Betty J. Houck as “husband and wife, for and during their joint lives, with the remainder in fee simple to the survivor of them, his or her heirs and assigns....” Because Betty Houck claims or may claim an interest in the real property on which the United States seeks to foreclose its liens in this action, justice requires that she be named as a party and joined as a defendant pursuant to FRCP 15(a). Furthermore, it is in the interests of judicial economy to join Betty

Houck as a party in this case so that all claims relating to the property at issue may be decided together.

The United States proposes to add Betty J. Houck as a defendant in a paragraph to the complaint numbered 3(a). The proposed United States' First Amended Complaint is attached to this memorandum as Exhibit 1. Paragraph 3(a) will be the only change to the original United States' complaint; no other paragraphs, counts or allegations will be changed or modified.

Should the Court allow Betty J. Houck to be named as a party in this case, the United States will proceed in serving her and all non-defaulted defendants with the United States' First Amended Complaint (attached as Exhibit 1).

Respectfully Submitted,

GREGORY G. LOCKHART
United States Attorney

JAN HOLTZMAN
Assistant United States Attorney

/s/ Lara E. Ewens
LARA E. EWENS
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 55
Ben Franklin Station
Washington, D.C. 20044
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/s/ Lara Ewens
LARA EWENS